Remarks:

Reconsideration of the application, as amended herein, is respectfully requested.

Claims 1 - 13 are presently pending in the application. Claims 1 and 8 have been amended. New claims 11 - 13 have been added.

In an Office Action dated March 11, 2005, (the "**OFFICE ACTION**") former claims 1 - 10 of the present application were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U. S. Patent No. 6,757,256 to Anandakumar ("**ANANDAKUMAR**").

In a response dated May 11, 2005 (the "**RESPONSE**"), Applicants' argued that the "**first data with real-time requirement**" and "**second data without real-time requirement**" of Applicants' claims, were not the same as the data transmitted in **ANANDAKUMAR** because, as defined in the instant application, "data <u>with</u> real-time <u>requirement</u>" is **a particular type of data**, in particular, in which a "**very high demand must be made that it can be guaranteed, that the delay time between the data is very short as is the case, for example, with voice data or video data**". The specification of the instant application defines "data <u>without</u> real-time <u>requirement</u>" as a different type of data, in which "it is only generally

important that the data are transmitted as free of errors as

possible but not necessarily that, for example, the delay of

the transmission between the individual data elements is as

short as possible". Applicants respectfully request that the

"remarks" section of that **RESPONSE** be incorporated herein, in

its entirety.

Contrary to Applicants' two, different types of data (i.e., 1)

first data with real-time requirement and 2) second data

without real-time requirement), **ANDAKUMAR** only discloses

sending packets of **real-time information**. Thus, **ANDAKUMAR**

only teaches transmitting **data with real-time requirements**.

For example, col. 3 of **ANDAKUMAR**, line 66 - col. 4, line 13,

states:

> "In one form of the invention, a process of sending
> packets of real-time information at a sender includes
> steps of initially generating at the sender the **packets**
> **of real-time information** with a source rate greater
> than zero kilobits per second, and a time or path or
> combined time/path diversity rate, the amount of
> diversity initially being at least zero kilobits per
> second. The process sends the packets, thereby
> resulting in a quality of service QoS, and optionally
> obtains at the sender a measure of the QoS. **Another**
> **step compares the QoS with a threshold of**
> **acceptability, and when the QoS is on an unacceptable**
> **side of said threshold increases the diversity rate and**
> **sends not only additional ones of the packets of real-**
> **time information but also sends diversity packets** at
> the diversity rate as increased. Also, rate/diversity
> adaptation decision may be performed at receiver."
> [emphasis added by Applicants]

The **diversity packets** of **ANANDAKUMAR** are described in col. 8

of **ANANDAKUMAR**, lines 31 - 33, which states:

> "'**Diversity packet**,' where the term is used herein
> sometimes means a self-contained packet with its own
> header and diversity information. However, the term
> '**diversity packet**' can also mean diversity bits and
> extra header bits put in a packet that already has a
> header and a payload." [emphasis added by Applicants]

In **ANANDAKUMAR**, there are two types of diversity information:

a) time diversity; and b) path diversity. Time diversity and

path diversity packets are summarized in col. 8 of

ANANDAKUMAR, lines 20 - 27, which states:

> "In **time diversity**, <u>information about packet n is also
> transmitted in packet n+1</u> and sometimes in even further
> packets where packets having at least some information
> in common with each other are called dependent packets.
>
> **Path Diversity** <u>sends dependent packets over two or more
> paths in the network</u>, thus increasing the probability
> of recovering the information that was coded to produce
> the dependent packets." [emphasis added by Applicants]

Clearly, the **diversity packets** of **ANANDAKUMAR** are still

packets of **data with a real-time requirement**, only shifted in

time or path. As such, **ANANDAKUMAR** only teaches transmitting

the same type of data, **real-time** data, at two **different times**

or by two different paths.

In the Advisory Action, it was stated:

> "Applicant's arguments have been fully considered but
> they are not persuasive. Applicant argues in

substance that Anandakumar does not disclose second
data without real time requirement where the real time
data may be video or audio and the second non-real
time data may be text. These limitation(s) are not
found in the claims. **Claim [sic] does not
specifically state that the first and second data have
different types.** Claimed subject matter not the
specification is the measure of the invention.
Disclosure contained in the specification cannot be
read into the claims for the purpose of avoiding prior
art. [citations omitted]." [emphasis added by
Applicant]

Applicants' have presently amended independent claims 1 and 8

to recite, among other things, **that the first data having

real-time requirement is a different type of data than the

second data without real-time requirement.** More specifically,

Claim 1 has been amended to recite, among other limitations:

"providing a plurality of first quality of service
classes in an application layer for transmitting first
data with real-time requirement and a plurality of
second quality of service classes in the application
layer for transmitting second data without real-time
requirement, **said first data with real-time
requirement being a different type of data from said
second data without real-time requirement;**" [emphasis
added by Applicants]

Claim 8 has been amended to recite, among other limitations:

a processor programmed to select a combined quality of
service class formed from the first quality of service
classes for the first data of a first type, said first
type with real-time requirement and the second quality
of service classes **for the second data of a second
type, said second type without real-time requirement,**
in the application layer, each combined quality of
service class being allocated transmission parameters
specifying a transmission of the first data and the
second data;" [emphasis added by Applicants]

Independent claim 10 incorporates all of the limitations of independent claim 8. As such, the claims all require, among other limitations, that the first data and second data are of different types. This is in striking contrast to the **ANANDKUMAR** reference, which teaches resending **the same data**, (ipso facto, data of the same type), at two different times or by two different paths.

Applicants note that the Advisory Action did not address the further arguments for patentability raised in the **RESPONSE**, and Applicants believe the claims to additionally be patentable for those further reasons stated. See pages 8 - 12 of the **RESPONSE**.

It is accordingly believed that none of the references, whether taken alone or in any combination, teach or suggest the features of claims 1, 8 and 10. Claims 1, 8 and 10 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claims 1, 8 or 10.

In view of the foregoing, reconsideration and allowance of claims 1 - 13 are solicited.

In the event the Examiner should still find any of the claims

to be unpatentable, counsel would appreciate receiving a

telephone call so that, if possible, patentable language can

be worked out.

If an extension of time for this paper is required, petition

for extension is herewith made.

Please charge any fees that might be due with respect to

Sections 1.16 and 1.17 to the Deposit Account of Lerner and

Greenberg, P.A., No. 12-1099.

Respectfully submitted,

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For Applicants

KPS:cgm

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